From: William Stearns
To: Microsoft ATR
Date: 12/10/01 12:51am
Subject: Microsoft Settlement.

Good day, all,

     I have some reservations about the proposed settlement with Microsoft Corporation.

     In the current situation:

- Microsoft holds a monopoly over the operating system industry.

- Microsoft controls the PC hardware industry by restrictive contracts that make it all but impossible to purchase a computer without a Microsoft operating system.

- Microsoft holds a monopoly in office applications.

- Microsoft maintains that monopoly by withholding the descriptions of the file formats used in their documents.

- Microsoft withholds the documentation concerning API's and network protocols.

     The proposed settlement does not appear to require any punitive damages or remedies for past monopolistic practices nor provide any specific punishments for future abuses. Section V seems to imply that the sole punishment for future abuse is a two year extension, "together with such other relief as the Court may deem appropriate." As the DOJ and courts have so far been unable to come up with any punishment for past abuses (even after a multi-year court case in which Microsoft was found guilty), it seems to be insufficient to trust future Court cases to come up with any reasonable and effective punishment.

     In essence, the Anti-trust division has put forth a proposed settlement that makes no attempt to handle Microsoft corporations monopolistic practices.

     In the proposed settlement:

- Section III (A) does not seem to allow for shipping a computer without any Microsoft operating system at all.

- Sections III(J)(2) and III(D) appear to specifically exclude non-commercial entities from the requirement that Microsoft provide API's documentation and protocol specs. This would have a continued stifling effect on the authors of free operating systems such as Linux, FreeBSD, OpenBSD, and NetBSD, among others.

The final agreement with Microsoft should include at least the following:

- Microsoft shall be required to publish, without restriction on use, 1) all API's and technical documentation for all of its operating systems, libraries and applications, 2) the file formats used in and technical documentation for all of its applications, 3) the complete network protocol descriptions and technical documentation for all the network protocols it uses, including any proprietary extensions to existing protocols, and 4) the format and technical documentation for any filesystems it uses, including but not limited to the FAT and NTFS filesystems.

- Microsofts agreements with OEMs and others may not include requiring any operating system (Microsoft or other) to be sold with a new or used computer, nor may it limit the number of operating systems sold.

- Specific punitive damages for past abuses and monopolistic practices and punitive damages in the case of future abuses or monopolistic practices.

The opinions expressed in this note are my own and solely my own. They do not represent any employer or organization of which I am a part.
Cheers,
- Bill

"A 'No' uttered from deepest conviction is better and greater than a 'Yes' merely uttered to please, or what is worse, to avoid trouble."
-- Mahatma Ghandi

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CC: William Stearns